

may renew a denied application in proceedings under 8 CFR part 1240 to determine admissibility.

(b) *Application under section 2 of the Act of November 2, 1966.* An application by a native or citizen of Cuba or by his spouse or child residing in the United States with him, who was lawfully admitted to the United States for permanent residence prior to November 2, 1966, and who desires such admission to be recorded as of an earlier date pursuant to section 2 of the Act of November 2, 1966, shall be made on Form I-485A. The application shall be accompanied by the Permanent Resident Card, Form I-151 or I-551, issued to the applicant in connection with his lawful admission for permanent residence, and shall be submitted to the director having jurisdiction over the applicant's place of residence in the United States. The decision on the application shall be made by the director. No appeal shall lie from his decision. If the application is approved, the applicant will be furnished with a replacement of his Form I-151 or I-551 bearing the new date as of which the lawful admission for permanent residence has been recorded.

(c) *Application under section 214(d) of the Act.* An application for permanent resident status pursuant to section 214(d) of the Act shall be filed on Form I-485 with the director having jurisdiction over the applicant's place of residence. A separate application shall be filed by each applicant. If the application is approved, the director shall record the lawful admission of the applicant as of the date of approval. The applicant shall be notified of the decision and, if the application is denied, of the reasons therefor. No appeal shall lie from the denial of an application by the director but such denial shall be without prejudice to the alien's right to renew his or her application in proceedings under 8 CFR part 240.

[30 FR 14778, Nov. 30, 1965]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 1245.2, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

§ 1245.3 Adjustment of status under section 13 of the Act of September 11, 1957, as amended.

Any application for benefits under section 13 of the Act of September 11, 1957, as amended, must be filed on Form I-485 with the director having jurisdiction over the applicant's place of residence. The benefits under section 13 are limited to aliens who were admitted into the United States under section 101, paragraphs (a)(15)(A)(i), (a)(15)(A)(ii), (a)(15)(G)(i), or (a)(15)(G)(ii) of the Immigration and Nationality Act who performed diplomatic or semi-diplomatic duties and to their immediate families, and who establish that there are compelling reasons why the applicant or the member of the applicant's immediate family is unable to return to the country represented by the government which accredited the applicant and that adjustment of the applicant's status to that of an alien lawfully admitted for permanent residence would be in the national interest. Aliens whose duties were of a custodial, clerical, or menial nature, and members of their immediate families, are not eligible for benefits under section 13. In view of the annual limitation of 50 on the number of aliens whose status may be adjusted under section 13, any alien who is prima facie eligible for adjustment of status to that of a lawful permanent resident under another provision of law shall be advised to apply for adjustment pursuant to such other provision of law. An applicant for the benefits of section 13 shall not be subject to the labor certification requirement of section 212(a)(14) of the Immigration and Nationality Act. The applicant shall be notified of the decision and, if the application is denied, of the reasons for the denial and of the right to appeal under the provisions of part 103 of this chapter. Any applications pending with the Service before December 29, 1981 must be resubmitted to comply with the requirements of this section.

(Secs. 103, 245, of the Immigration and Nationality Act, as amended; 71 Stat. 642, as amended, sec. 17, Pub. L. 97-116, 95 Stat. 1619 (8 U.S.C. 1103, 1255, 1255b))

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